(1)

(3)

IN THE HIGH COURT OF CHHATTISGARH,BILASPUR (C.G.)

WRIT PETITION NO.491/2004

PETITIONER
Non applicant No.1 : **Malkit Singh Bal**, s/o. late Shri Sampuran Singh Bal (not mentioned at some places before the court below), aged about 52 years, R/o Punjab National Roadlines, Gandhi Bagh Nagpur (Maharashtra)

VERSUS

RESPONDENTS :

(APPLICANT NO.1) 1.**Smt. Arundhati Devi,** Widow of Vindeshwari @ Vindeshwar Brahmin,R/o Champa, District Janjgir-Champa (C.G.)

(APPLICANT NO.2) 2. Smt. Kaveribai, w/o Shankar Prasad Gauraha, aged about 55 years, R/o Brahminpara Champa, District Janjgir-Champa (C.G.)

P.R. No. 468/04
Presented by Shri V.R. Koshle
dated 11.8.2004

(APPLICANT NO.3) 3.Shankar Prasad, s/o Kedar Nath Gauraha, R/o Brahminpara Champa, District Janjgir-Champa (C.G.)

(NON-APPLICANTNO.3)4.National Insurance Company Limited, Branch Nagpur (Maharashtra)

(2)

(4)

(NON-APPLICANT NO.2) 5.Rajendra Singh, s/o Balbir Singh Bal, aged about 25 years, R/o. c/o. Bombay M.P. Road Lines, Tatibandh Raipur (C.G.)

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT/WRITS, ORDER/ORDERS, OR/AND DIRECTION / DIRECTIONS IN THE NATURE OF MANDAMUS/CERTIORARI, OR OF ANY OTHER APPROPRIATE NATURE.

XI-HC-22

(70)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.491/2004 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

23/07/2004

Shri M.P.S. Bhatia, counsel for the petitioner.

Shri Pankaj Shrivastava, counsel for respondents No. 2 &3.

Shri A.K. Gupta, counsel for respondent No.4.

An application (M.W.P.No.4870/2004) for permitting withdrawal of amount has been filed on behalf of respondents No. 2 and 3.

As per this Court's order dated 08/03/2004, execution of the award was stayed subject to depositing 50% of the award amount and further on furnishing security for the remainder. The respondents No. 2 and 3 have now moved this application for allowing them to withdraw the amount.

Perusal of the impugned award reveals that the respondents No. 2 and 3 are parents of the deceased and respondent No.1 is widow of the deceased and they have been awarded the compensation in equal share.

Learned counsel for the parties submit that against the said award respondent no.1 has already moved the Miscellaneous Appeal before this Court for grant of more share to her as she is widow of the deceased and respondents No. 2 and 3 are elder persons and the said Miscellaneous Appeal is still pending decision before this Court. Therefore, the respondents No. 2 and 3 are at liberty to move in that Miscellaneous Appeal for withdrawal of the amount.

As far as this writ petition is concerned, the petitioner has filed this writ petition challenging the award on the ground that

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आदेश पत्रक

मामला क्रमांक WP 491/2004 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the said award was passed in an ex parte proceeding against the petitioner. Learned counsel for the petitioner submits that the application under Order 9, Rule 13 of the Code of Civil Procedure has already been moved by the petitioner before the concerned Tribunal for setting aside the ex parte award which is pending consideration. He further submits that the petitioner was forced to move this writ petition because his application for stay of the execution of the award was rejected by the Tribunal.

Since the stay has already been granted in this matter and as such proceeding for setting aside the ex parte award is already pending, this writ petition is unnecessary as the petitioner has already has alternative remedy for setting aside the ex parte award and he has already availed the same. Therefore, this writ petition is disposed of with the aforesaid observations. However, stay granted by this Court will continue till the disposal of the application filed under Order 9, Rule 13 of the Code of Civil Procedure.

In view of this order, M.W.P.No.1554/2004 and I.A.No.4870/2004 also stand disposed of.

Certified copy as per rules.

Sd/-
L.C.BHADOO
Judge

Rayu

[पीछे देखिये